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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,051	12/13/2001	Brett A. Reed	125426-1067	1150

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EXAMINER

DUDA, RINA I

ART UNIT PAPER NUMBER

2837

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/017,051

Applicant(s)

REED ET AL.

Examiner

Rina I Duda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 56-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 56-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 56-73 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4, 7-11, 14-17, 31-33, and 46-51 of U.S. Patent No. 6388412. Although the conflicting claims are not identical, they are not patentably distinct from each other.

The invention recited in claims 56-73 of the instant application is an obvious variation of the invention defined in claims 1-4, 7-11, 14-17, 31-33, and 46-51 of the issued patent, the only difference between the issued claims and the pending claims is that the issued claims are narrower or more specific; the issued apparatus claims recite a power supply control circuit and the method claims recite how the brake operator will brake the output shaft (progressively). One person of ordinary skill would have known that in the case of the apparatus claims, all electrical circuits that have the characteristic of moving in two different directions would have to have some form of controller, which

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would let the motor know when to move in the forward direction or the reverse direction.

Furthermore, in reference to the method claims any person skilled in the art would know that if the brake operator is capable of progressively breaking the output shaft (as recited in the issued claims), the operator is providing a controlled operation of the output shaft (as recited in the pending claims). Therefore, the claims of the instant application are not patentably distinct from the already issued claims.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 56, 57, 62, 63, 66, and 71-73 are rejected under 35 U.S.C. 102(e) as being anticipated by Noda et al (US Patent 6425206).

Claim 56, Noda et al teach an open/close body control system comprising a controller 30 for outputting open, close, stop signals to a door; a motor drive circuit 32 for receiving control signals from the controller and operating motor 81 based on said signals; and a brake control circuit 33 connected to controller 30 for providing control signals to brake means BK in order to control the rotation of the output shaft.

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Claim 57, Noda et al describe that the brake control circuit releases the brake device as soon as the power switch 4b is manipulated, as described in column 10 lines 45-67.

Claim 62, Noda et al describe door limit sensors 43 and 44 connected to the input interface circuit 31, said circuit 31 provides input signals to the controller 30 indicating if the door has reached an open or close position.

Claim 63, Noda et al describe that means 31 receives information from different switches and based on said information, the controller 30 controls the direction of movement of the sliding door.

Claim 66, Noda et al describe that the brake control circuit contains a PWM circuit which provides pulses to the brake mechanism BK in order to control the rotation of the output shaft as shown in figure 7.

Claims 71-73, Noda et al describes a method for controlling the operation of a sliding door comprising moving the door towards the open and close position; causing a brake control circuit 33 to provide controlled rotation of an output shaft by applying pulse width modulation, as shown in figure 7; adjusting/calibrating the duty cycle of the modulated signal at selected times in order to control the rotation of the output shaft, as described in column 12 lines 37-67, column 13 lines 1-67, and column 14 lines 1-22.

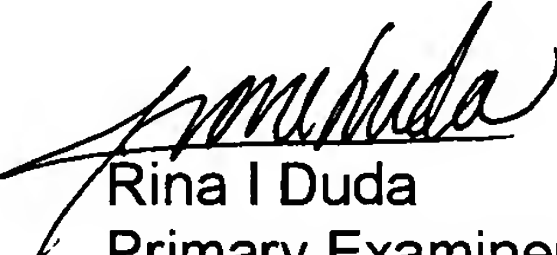
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The documents cited teach different systems/methods for controlling the operation of automatic doors.

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6. An inquiry concerning this communication or earlier communications from the examiner should be directed to Rina I Duda whose telephone number is 703-305-0722.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached at 703-308-3370. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7722 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


Rina I Duda
Primary Examiner
Art Unit 2837

RD
June 13, 2003